
Chapter 5 – THE REHABILITATION REVIEW PROCESS

5.1.0**REHABILITATION REVIEW PURPOSE****s.50.065(5)
HFS 12.03(18)**

All caregivers with an offense on the Offenses List:

- Criminal conviction,
- Finding of misconduct entered on the Wisconsin Caregiver Misconduct Registry, or
- Finding of child abuse or neglect finding

may request a Rehabilitation Review with the Department. An approval through the Rehabilitation Review process allows a caregiver to work in a state-regulated facility, such as a state licensed hospital, home health agency or community based residential facility.

The Rehabilitation Review is an opportunity for a caregiver to provide clear evidence that a repeat of the conduct that led to their conviction is not likely and clients will remain safe under their care.

Federal regulations require that nurse aides with a finding of caregiver misconduct be permanently barred from working in any capacity in federally regulated nursing homes and may be barred from working in intermediate care facilities for persons with mental retardation (ICFs/MR). The Rehabilitation Review process cannot change this permanent bar.

5.1.1**Offenses Affecting Caregiver Eligibility**

The Offenses List includes serious convictions, as well as governmental findings, that require the person to apply to the Department for a Rehabilitation Review to be eligible to work as a caregiver, to receive regulatory approval or to reside in an entity regulated by DHFS (see [Appendix III](#)).

5.2.0**REHABILITATION REVIEW PROCEDURES****HFS 12.12(2)(a)**

A caregiver or a nonclient resident who has:

- Committed a crime on the Offenses List,
- A finding of misconduct entered on the Wisconsin Caregiver Misconduct Registry, or
- A child abuse or neglect finding

may apply for a Rehabilitation Review to seek approval to work as a caregiver, obtain regulatory approval or reside in an entity regulated by DHFS.

HFS 12.12(2)(b)

Entities are required to give employees information on Rehabilitation Review eligibility criteria and on how to obtain the application. BQA must give this information to a person seeking regulatory approval or nonclient

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residency. (See the [*Rehabilitation Review Process of Wisconsin's Caregiver Program*](#) brochure, PSL-3160).

5.2.1

Application procedures**HFS 12.12(3)**

The applicant must complete and sign a ***Rehabilitation Review Application*** form EXS-263 (See [Appendix I](#) or <http://dhfs.wisconsin.gov/caregiver/BkgdFormsINDEX.HTM>) with attachments, and submit them to the Office of Legal Counsel, DHFS. Incomplete applications will be denied unless good cause exists for failure to submit a complete application.

Upon receipt of a complete application, DHFS will notify the applicant by mail when and where the Rehabilitation Review Panel will meet. The applicant may be asked to provide additional information.

5.2.2

Panel Review Meeting**HFS 12.12(4)**

Although the applicant is not required to appear at the Rehabilitation Review Panel meeting, the applicant's appearance is recommended. Panel members may ask questions to facilitate decision making, and the applicant will have an opportunity to answer their questions.

As applicable, the Rehabilitation Review Panel will consider the following:

- Personal reference checks and comments from employers, persons, and agencies familiar with the applicant and statements from therapists, counselors and other professionals.
- Evidence of successful adjustment to, compliance with or proof of successful completion of parole, probation, incarceration or work release privileges.
- Proof that the person has not had subsequent contacts with law enforcement agencies leading to probable cause to arrest or evidence of noncompliance leading to investigations by other regulatory enforcement agencies.
- Any pending or existing criminal or civil arrest warrants, civil judgments or other legal enforcement actions or injunctions against the person.
- Any aggravating or mitigating circumstances surrounding the crime, act or offense.
- Evidence of rehabilitation, such as public or community service, volunteer work, recognition by other public or private authorities for accomplishments or efforts or attempts at restitution, and demonstrated ability to develop positive social interaction and increased independence or autonomy of daily living.

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- The amount of time between the crime, act or offense and the request for Rehabilitation Review, and the age of the person at the time of the offense.
- Whether the person is on the sexual offender registry under s. 301.45, Stats., or on a similar registry in another jurisdiction.
- A victim's impact statement, if appropriate.
- Employment history, including evidence of acceptable performance or competency in a position and dedication to the person's profession.
- The nature and scope of the person's contact with clients in the position requested.
- The degree to which the person would be directly supervised or working independently in the position requested.
- The opportunity presented for someone in the position to commit similar offenses.
- The number, type and pattern of offenses committed by the person.
- Successful participation in or completion of recommended rehabilitation, treatment or programs.
- Unmet treatment needs.
- The applicant's veracity.

5.2.3

Review Panel Decision**HFS 12.12(5)(a)**

After the meeting, the Rehabilitation Review Panel will decide whether sufficient evidence of rehabilitation exists. Each application is handled on a case-by-case basis. The panel will issue one of the following written decisions:

- *Approved:* If the Panel finds sufficient evidence of rehabilitation, the panel will approve the Rehabilitation Review application and may specify conditions or limitations that apply to the approval.
- *Denied:* If the Panel does not find sufficient evidence of rehabilitation, the decision will provide the reasons for denial and inform the applicant of his/her right to file an appeal within 10 days of the decision.
- *Deferred:* The Panel may defer a final decision for up to six months to gather additional information or for other reasons.

A Rehabilitation Review approval does not ensure that the applicant will be hired by an entity or receive permission to reside at an entity.

HFS 12.12(2)(a)1

Caregivers who are denied approval may not reapply for one calendar year after the date of denial.

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5.3.0 CONTACT INFORMATION

Individuals, who have questions about the Rehabilitation Review process, who would like more information or who need assistance in completing the application should contact DHFS or their DHFS designated tribal authority.

5.3.1 DHFS Regulated Entities

Persons seeking Rehabilitation Review approval for employment, contracted services, regulatory approval, or nonclient residency in a DHFS regulated entity may contact:

Department of Health and Family Services
Office of Legal Counsel
One West Wilson Street, Room 651
P.O. Box 7850
Madison, WI 53707-7850
(608) 266-8428

5.3.2 Tribal-operated DHFS Regulated Entities

Persons seeking Rehabilitation Review approval for employment, contracted services, or nonclient residency in tribal-operated, DHFS regulated entities may contact the appropriate DHFS designated tribal authority.